

APPLICANT(S): BLIJEVSKY, Alex
SERIAL NO.: 10/585,131
FILED: May 29, 2007
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REMARKS

On July 26, 2011 the undersigned and Examiner Smith discussed the restriction requirement. The undersigned argued that the restriction requirement was not proper, for the reasons discussed more fully below. No agreement was reached.

The Examiner has required election between the Examiner-defined species of Fig. 3A and Fig. 3B, and a restriction to one of two Examiner-defined inventions:

- I. Claims 1, 4-5, 7-10, 15-16 and 30-34; and
- II. Claims 18, 20-23, and 35-37.

The Manual of Patent Examination and Procedure (MPEP) § 806.05(e) states that:

Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process.

Applicants assert that this MPEP section requires a comparison between the process as claimed (e.g., Applicants' claim 18) and the apparatus as claimed (Applicants' claim 1). The different embodiments of the apparatus and process disclosed in Applicants' Specification are irrelevant. What is relevant is a comparison between the claimed process (claim 18) and the claimed apparatus (claim 1). Since, as the undersigned stated during the July 26, 2011 conversation with Examiner Smith, the process of Applicants' claim 18 can only be used with the apparatus of claim 1, and the apparatus of Applicants' claim 1 can only be used with the process of claim 18, a restriction requirement is not appropriate.

In addition, Applicants assert that searching for both the claims of Group I and the claims of Group II is not a significant burden on the Examiner beyond searching for either claim group individually.

However, Applicants elect Group I (claims 1, 4-5, 7-10, 15-16 and 30-34) with traverse and Applicants elect the species of Fig. 3A, with traverse. Claims 30 and 37 correspond to the species of Fig. 3A.

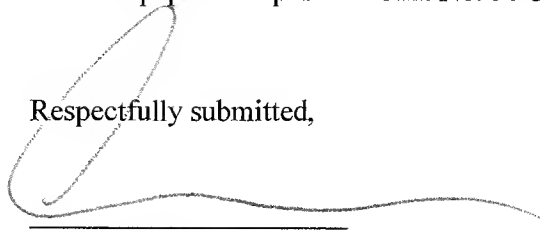
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Applicants assert that in the case of the election requirement, searching for both the species of Fig. 3A and the species of Fig. 3B is not a significant burden on the Examiner beyond searching for either species individually.

Applicants assert that the present invention is new, non-obvious and useful. Prompt notice of allowance is respectfully requested.

No fees are believed to be due in connection with this paper. However, if any fees are due, please charge any such fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Caleb Pollack', is written over a horizontal line. The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail that extends to the right.

Caleb Pollack
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